

PROCEEDINGS OF THE HISTORIC CONSERVATION BOARD

MONDAY, DECEMBER 22, 2003

3:00 P.M., J. MARTIN GRIESEL ROOM, CENTENNIAL PLAZA II

The Historic Conservation Board met at 3:00 P.M., in the J. Martin Griesel Room, Centennial Plaza II, with members Bloomfield, Kirk, Raser, Senhauser, Spraul-Schmidt, Sullebarger, and Wallace present. Absent: Kreider

MINUTES

The minutes of the Monday, December 8, 2003 meeting were unanimously approved (motion by Bloomfield, second by Sullebarger).

CERTIFICATE OF APPROPRIATENESS, 2725-2727 CLEINVIEW AVENUE, CLEINVIEW-HACKBERRY HISTORIC DISTRICT

Staff member Caroline Kellam presented the staff report on this request for a Certificate of Appropriateness for the construction of a new driveway and retaining wall at 2725-2727 Cleinview Avenue, a contributing resource within the Cleinview-Hackberry Historic District.

[Ms. Spraul-Schmidt and Mr. Kirk entered the meeting]

Ms. Kellam explained that the driveway is proposed on the south side of the property, 2'-1" from the property line. The owners/applicants indicated they had considered constructing the driveway on the north side of the residence; however, the neighboring property owner would have to grant an easement. The proposed retaining wall will run along the side of the driveway to the south, 8" from the neighbor's side property line. It will be 75' in length and approximately 3' in height. The wall will step back in design and have the appearance of rusticated stone.

Ms. Kellam stated that she received no communication from the East Walnut Hills Assembly regarding the proposal and only the applicants attended the pre-hearing. Ms. Christine Turner, owner of 2719 Cleinview Avenue, wrote in opposition to the proposed work expressing concern with the proximity of the driveway to her property and with drainage. She also questioned the applicants' engineering expertise since they would be constructing the wall themselves.

Ms. Kellam explained that the proposed driveway and retaining wall meet the guidelines for the historic district; however, staff questioned if the applicants would consider the use of tinted concrete instead of asphalt. The applicants thought it might be cost prohibitive, but are investigating the comparison of long-term maintenance costs. No variances are necessary for the project.

Ms. Kellam confirmed for Ms. Sullebarger that the neighboring properties at 2719 and 2729 Cleinview did not have driveways. She noted that the majority of the driveways in that block appear on the opposite side of the street and are concrete or gravel. She replied that she was not aware of parking being a problem on the street.

Co-applicant and owner Teresa O'Farrell was present to respond to questions from the Board. In response to Mr. Raser, Ms. O'Farrell stated the driveway would be constructed without changing the grade on the property. She agreed that the retaining wall would be

close to 2' in height in front of the neighboring house, gradually stepping down to be level with the back yard. To address drainage, the driveway would be slightly sloped (more than ¼" per foot) toward the street and a drain would be placed on the slope, feeding into a downspout drain. They will also provide for drainage under the driveway.

Mr. Kirk observed that the proposed driveway is narrow and does not allow much room for negotiation. Considering the proximity of the neighboring house to the retaining wall and driveway, Mr. Kirk suggested that the applicants consider raising the retaining wall and using a reinforcing bar or mortar to reinforce the capstone. This would provide more resistance to prohibit or at least deter a car from knocking over the stones and dropping off the edge. Mr. Bloomfield opined that a professional engineer should review the applicants' drawings.

Ms. O'Farrell confirmed for Mr. Senhauser that they did not wish to change the grade adjacent to their house and were wary of exposing the foundation of the house. Mr. Senhauser stated his concern was they would be retaining ± 30 - 36" of earth within 12" of the adjacent property owner's house. He explained the additional earth and the weight of the retaining wall would introduce a surcharge on their foundation that was not previously there. Mr. Senhauser explained it was not within the Board's purview to question the design, but it was important that they understand whether the driveway could be built as proposed and whether they are creating any detrimental effect. Ms. O'Farrell stated that there is a difference in grade between the two homes. She thought the construction of the retaining wall and driveway would mitigate water draining from her property into the neighbor's basement.

Mr. Senhauser suggested there was an aesthetic issue regarding the retaining wall and driveway adjacent to the house and in the neighborhood. He agreed that a chalky white driveway would not be desirable and suggested that darker would be better. Ms. Sullebarger questioned whether a driveway was necessary and reiterated that there are no driveways within the block on that side of the street.

BOARD ACTION

The Board voted unanimously (motion by Sullebarger, second by Spraul-Schmidt) to table the item to allow the applicants time to consult with a professional engineer.

Following the tabling of the item, Ms. O'Farrell stated that when they applied for the building permit, MSD required that they change their plan to include the drain across the slope of the driveway. She pointed out that this was the only issue raised regarding their application.

Mr. Senhauser allowed Tom Turner of 2729 Cleinview to address the Board. Mr. Turner stated his wife is the property owner of record of 2719 Cleinview Avenue (the adjacent property). He explained that their primary concerns were with the proximity of the driveway and retaining wall to their property and any potential drainage issues, and an inability to maintain their property in the small space that will remain between the wall and their residence. He pointed out that the elevation difference between the subject property and their property is approximately 30". Their first floor windows will be just slightly higher than the level of the proposed driveway, which presents concerns of exhaust fumes and headlights. In reply to Mr. Senhauser, he stated that his house is on the property line.

**CERTIFICATE OF APPROPRIATENESS AND ZONING VARIANCE, 528 EAST
13TH STREET, OVER-THE-RHINE HISTORIC DISTRICT**

Urban Conservator William Forwood presented the staff report on this request for a Certificate of Appropriateness (COA) and zoning variance for the rehabilitation of 528 East 13th Street from a two-family dwelling into a three-family dwelling.

Owner/Developer Community Views, LLC/OTR Housing Network (OTR Housing Network) is proposing the rehabilitation of 528 East 13th Street as part of a larger project, the Community Views Development. City Council passed a resolution supporting the Community Views project, which was to include fifteen units in six buildings. In complying with the Impaction Ordinance, 20% (3) of the units were to be market rate. Since City Council's resolution, the number of buildings has been reduced to five and the number of units to 13. The requirement of three market-rate housing units still stands. Additionally, since being reviewed by Council, the estimates for the renovation of one of the buildings (440 West McMicken) exceeded the project budget, thereby requiring it to be replaced with another building. OTR Housing Network is proposing to replace 440 West McMicken with 328 East 13th Street. They are requesting the Historic Conservation Board's approval of the COA and zoning variance for 328 East 13th Street before returning to Council to obtain their authorization for the substitution.

Mr. Forwood stated that the proposed rehabilitation work is consistent with the historic district guidelines; however, a zoning variance is required since the minimum lot area per dwelling unit does not meet the requirements of the Zoning Code. The R-6 zoning permits a 3-family dwelling, but requires a lot size of 1,000 sq. ft. per living unit. The lot is less than 3000 sq. ft.

Staff received communications from individuals objecting to the added density that would result from the conversion of the building into a three-family dwelling. They pointed out that granting the variance would conflict with a trend that has occurred in the neighborhood over the last few years of converting multi-family buildings back into single- or two-family dwellings, which is in keeping with the historic nature of the community. Additionally, Smith and Marge Hammelrath (Over-the-Rhine Foundation) telephoned to voice opposition to the Board granting the zoning variance.

Since writing the staff report, staff received an email from Don Lenz, development consultant to the owner, who wrote in support of the Board granting the COA and zoning variance. A copy of the email was distributed to the Board.

Mr. Forwood explained that staff recommends that the Board grant the variance to permit the three-family dwelling with the stipulation that if it is approved in the package, it would contain market rate units only. Granting the variance would be a recommendation in support of the Community Views project, which has received low-income tax credits, been approved for City funding, and is applying for historic tax credits.

Ms. Sullebarger pointed out that there are buildings in the block that far exceed the density that the Board is being asked to approve in this application. She suggested that the major issue might be less with the variance allowing for greater density and more with the market rate versus low income. Mr. Bloomfield responded that the variance being requested is substantial since the Zoning Code requires a lot size of 3000 sq. ft. and the subject property is approximately 2300 sq. ft.

The Board asked for clarification on the stipulation that 328 East 13th contain the three market rate units. Mr. Forwood replied that staff is recommending the variance be conditioned upon the (obligatory) three market rate units being put in 328 East 13th, rather than another building in the development package located in another neighborhood. He explained that the community has indicated they would prefer market-rate owner-occupied housing to subsidized housing. Mr. Bloomfield and Mr. Kirk suggested that the stipulation that the three units be market rate could not be enforced.

Tashawa Perrin, the project manager with the Department of Community Development and Planning (DCDP) requested to address the Board. Ms. Perrin explained that the City uses the terms market rate (what the market can bear) and low-income (lower than what the market can bear) since funding sources are divided accordingly and because of the Impaction Ordinance, which stipulates that low-income housing cannot be constructed without 20% being market rate. In response to Mr. Bloomfield, Ms. Perrin agreed that no one could guarantee that the building would not become low-income housing in an area that is already impacted.

Ms. Sullebarger moved that the Board approve the staff recommendation for purposes of discussion. The motion failed for lack of a second.

Mr. Bloomfield moved that the Historic Conservation Board not endorse the staff recommendation and that the zoning variance not be granted. In response to Mr. Raser, Mr. Bloomfield stated that the Board is being pushed to make a decision because of a project that has little to do with East 13th Street and the historic district. He suggested that making the relatively small building a three family would be detrimental to the building, the neighborhood, and the community. Mr. Bloomfield questioned if the COA was only for exterior work. Mr. Senhauser replied that because the rehabilitation is federally funded, it would be subject to the Section 106 Review, which would include a review of the interior. Mr. Bloomfield's motion died for lack of a second.

Ms. Sullebarger moved approval of the staff recommendation for purposes of discussion. Ms. Wallace seconded the motion.

Julia Carney, DCDP, explained that in the proposed Zoning Code, staff based their original proposal of an RM.7 zoning designation on the existing density of the area. RM.7 stipulates a minimum lot size of 700 sq. ft. per unit. The City Planning Commission amended the designation in response to views presented by the Pendleton Community Council. With the passage of the new Zoning Code, the zoning designation for 528 East 13th Street (and the area north of 13th Street) will be RM1.2, which requires a minimum lot size of 1200 sq. ft. per unit. Mr. Senhauser clarified that under the current zoning, a lot size of 3000 sq. ft. would be required for three units; under the proposed zoning, it would require a minimum lot size of 3600 sq. ft. for the three units.

Mary Burke, business manager/director for OTR Housing Network was present to address the Board. Ms. Burke pointed out that the Board would be considering the application under the current zoning, and not the proposed zoning. Ms. Burke stated that when inventorying their buildings, they considered 528 East 13th Street to have three units. She noted that it currently has two kitchens; however, at one time, it had three. She explained that when the bids for the building at 440 West McMicken came in over budget, they considered substituting it with other properties for sale in the neighborhood and with properties in their current inventory. They also solicited bids from other

contractors. Ultimately, since they would not have to incur the time or expense of acquisition, they substituted the building with 528 East 13th Street. She pointed out that they have only until the end of 2004 to build the units.

In reply to Ms. Wallace, Ms. Burke stated that her company has been involved in Over-the-Rhine for 15 years. They are a community-based non-profit and has representatives from the community on their board.

Ms. Burke stated they intend to keep the units in 528 East 13th Street market rate. OTR Housing Network is giving money back to the state that they were given to repair a roof so that current low-income restrictions would not apply. Ms. Burke reasoned that since there are currently five to six people living in the building, the number would not likely increase with the construction of the units as proposed (2, two-bedrooms and 1, one-bedroom). She noted that OTR Housing Network owns the adjacent buildings. 524-526 is a low income tax credit unit and would remain subsidized for 25 more years; 530 East 13th has affordable rents. She requested that the Board grant the variance and support their effort to provide mixed-income housing. In response to the Board, she stated that if the Board did not approve the variance, they would eliminate the building from the package and request that Council support the project without the market rate units. Ms. Burke disagreed with Mr. Bloomfield that City Council would be more inclined to support the project with two market-rate units, rather than no market rates. She confirmed Mr. Bloomfield's statement that the desire to do the market rate units is driven primarily by City Council policy.

Mr. Raser suggested that if the sizes of the dwelling units were reduced from full to intermediate or efficiency, the project would not require a zoning variance and they could still have three dwelling units. Mr. Bloomfield stated that this option was not being presented to the Board.

Mr. Lenz was present to address the Board. Mr. Lenz said that he was not involved with the planning of the Community Views Project. He stated that while OTR Housing Network agrees with the City that more homeownership opportunities are needed, every project should not be expected to provide homeownership. Mr. Lenz suggested that considering the size of the building and the market for owner-occupied housing in the neighborhood, homeownership was not feasible or would be very difficult for this building at this point in time. He also pointed out that he could foresee no significant problem with rental housing at 528 East 13th Street. There is a significant amount of rental housing currently on 13th Street and OTR Housing Network would be highly responsible in providing market housing in the building. In reply to Mr. Bloomfield, Mr. Lenz estimated that the two bedroom units would rent for approximately \$525 per month.

Mr. Andy Hutzal, board member to OTR Housing Network, emphasized OTR Housing Network has proven itself as a quality developer. This project gives them the opportunity to cater to mixed-upper income. Mr. Hutzal pointed out that opening up mixed-income is a goal specified in the Over-the-Rhine Comprehensive Plan.

Chantelle Nobel, of Brashear Bolton (the applicant) stated that the issue is not whether the building is a two- or three-family, but how they divide the units. As proposed, there are five bedrooms. She pointed out that if the units were divided into a one four-bedroom and two efficiency units, they would be allowed under the Zoning Code, to construct the units without any variance. She stated that their proposal will not dramatically change

the building or its effect on the neighborhood since there will be the same number of bedrooms and people living in the building.

Joe Bodkin, 517 East 13th Street, stated he was opposed to the application because of the increase in density and stressed that the community fought for lower density with the zoning re-write. He understood that homeownership is not always feasible, and stated he was not opposed to market rate. He questioned why the number of market rate units could not be dropped to two since there are now fewer buildings in the development package. In response to Mr. Bloomfield, Mr. Bodkin stated that there are currently seven buildings on the block that in the past few years have become owner-occupied, one- or two-family buildings. In reply to Mr. Raser, Mr. Bodkin stated that if a five bedroom, single-family were converted into an apartment with five bedrooms, there would likely be five cars parked on the street, versus two with the single-family.

Mr. G. Alexander Balz, 532 East 13th Street, opposed the application contending that originally the building was in all probability a single-family. He spoke against allowing a greater density in that it would make it difficult for a future owner with an interest in the community to return it to single-family use.

Ms. Sullebarger expressed support of the application. She pointed out that the Board is obligated to follow the guidelines to determine what is best for the district as a whole, not only the building. She conceded that in all probability the building was originally a single-family; however, she was not convinced that a single-family is possible for that location, even though she appreciated the community's desire for homeownership. She pointed out that OTR Housing Network was a responsible developer and that by putting market rate housing in the project, they made a dramatic policy shift. She suggested that market rate units were a good compromise between dense, low-income and single-family. She felt it was significant that they could do the project with the same occupancy that it currently has without out a variance by constructing smaller units; however, a variance would benefit the project since it would allow for the larger units as proposed. She also expressed concern for the impact on the other buildings in the package, if the Board did not approve the variance.

The Board expressed additional viewpoints. Mr. Bloomfield suggested that it was inappropriate to consider this a mixed-use project (except regarding financing) since the buildings were so geographically dispersed. He agreed that development is difficult in Over-the-Rhine, and pointed out that difficulty is due to the area being so impacted by low-income housing. He stated that private investment in Over-the-Rhine, Pendleton and more specifically 13th Street has just started and for the Board to support the building being anything other than homeowner-occupied would be contrary to the momentum toward private investment. He contended that the building could be owner-occupied given its relatively small size and suggested that OTR Housing Network consider substituting the building with another. While Ms. Wallace spoke in support of OTR Housing Network, she agreed with Mr. Bloomfield that the size of the units could be reconsidered. Mr. Kirk expressed apprehension about the Board making decisions regarding how units will be marketed to the community, e.g., market rate or subsidized. Mr. Senhauser pointed out that when a market rate property is placed adjacent to two low-income properties, upkeep of the adjacent properties would be key to maintaining the value of the market rate property. Mr. Bloomfield disagreed that OTR Housing Network would try to maximize the return on their property since they are non-profit.

The Board discussed staff's recommendations and concluded that they did not have enough information to determine if 440 West McMicken could be substituted by any other property other than 528 East 13th Street. In addition, Mr. Raser suggested that the Board could not determine whether the number of market rate units in the project could be reduced. This would be a policy decision for City Council.

Mr. Raser commended the overall plans for the renovation of the building, but suggested that the item be tabled to allow the architects to consider fewer units and for the owner to resolve financial issues. Mr. Kirk seconded the motion; however, the motion to table failed, lacking adequate support.

The Board reiterated the possibility that the building could be a three-family without a variance by reducing the size of the units. Mr. Bloomfield suggested that since the developer must return to Council with changes, the Board's position that the building be redeveloped as no more than a two-family be included.

BOARD ACTION

The Board voted 4 to 1 (motion by Raser, second by Wallace; nay: Sullebarger; abstention: Spraul-Schmidt) to take the following actions:

1. Find that the proposed exterior work as specified in the drawings submitted meets the Over-the-Rhine Historic District guidelines and approve a Certificate of Appropriateness; and
2. Find the Community Views Development Project is in the interest of historic preservation and that the inclusion of 528 East 13th Street in the development package (preferably as a two-family building) will result in the rehabilitation of five additional buildings in the Over-the-Rhine Historic District.

**SPECIAL EXCEPTION, 1546-1548 ELM STREET, OVER-THE-RHINE
HISTORIC DISTRICT**

[Mr. Kirk left the meeting]

Owner and developer, Aaron Etzler submitted an application for an approval of a special exception for a neighborhood business use at 1546–1548 Elm Street. Mr. Etzler proposes to rehabilitate the building for mixed-uses with a grocery carryout store on the first floor and residential apartments above. The building has remained vacant long enough that it has lost its nonconforming use status. Staff approved the restoration of the storefront. The remainder of the rehabilitation work will be reviewed under a separate building permit.

BOARD ACTION

The Board voted unanimously (motion by Sullebarger, second by Spraul-Schmidt) to take the following actions:

1. Find that the rehabilitation of this building will remove a blighting influence from the community and will further the aims of historic preservation in the district;
2. Find that the adjacent uses and conditions would not be injurious to the health, safety or morals of the occupants of the proposed dwelling units;
3. Find that the reestablishment of the grocery store use to be in public interest and:

- a) The substituted use is a principal permitted or conditional use under the B-1 Neighborhood Business District Regulations;
 - b) At the time the building was last used for a lawful nonconforming use, the building was specially equipped or structurally designed for that use and has not been substantially altered since then; and
 - c) The floor area of the building devoted to business use is not increased;
4. Find that such relief from the literal implication of the Zoning Code:
 - a) Is necessary and appropriate in the interest of historic conservation so as not to adversely affect the historic architectural or aesthetic integrity of the district; and
 - c) Will not be materially detrimental to the public health, safety, and welfare of injurious to the property in the district or vicinity where the property is located; and
 5. Approve the special exception for a neighborhood business use to establish a commercial use on the first floor of this building at 1546-1548 Elm Street in the Over-the-Rhine Historic District.

[Mr. Kirk returned to the meeting]

TRANSITION ZONE APPROVAL, 1118-1120 RACE STREET, OVER-THE-RHINE HISTORIC DISTRICT

On August 25, 2003, the Board approved exterior work to the building at 1118-1120 Race Street, as part of a larger project to rehabilitate the property into two market rate condominiums. The owner/applicant Gregory Badger would prefer to sell the two residences separately as townhouses and is requesting the necessary approval to divide the lot into two equal parcels.

BOARD ACTION

The Board voted unanimously (motion by Sullebarger, second by Kirk) to approve the T-Zone application to subdivide 1118-1120 Race Street (parcel 07600020007) into two discrete and equal parcels.

PRELIMINARY DESIGN REVIEW, 1406, 1408, AND 1410 PLEASANT STREET, OVER-THE-RHINE HISTORIC DISTRICT

Mr. Forwood presented the staff report for this preliminary design review of the construction of three new single-family dwellings at 1406, 1408 and 1410 Pleasant Street. The new construction would necessitate the demolition of three contributing resources to the district.

Owner and co-applicant, Race Street Tenant Organization Co-operative (ReSTOC) provided basic information on the condition of the buildings when purchased and their assessed value. Additional information including documentation regarding the structural condition of the residences, rehabilitation costs, and other data is needed to substantiate that they cannot gain a reasonable rate of return from the renovation or sale of the properties.

Andy Hutzell, Director of ReSTOC and Doug Kraus with Cincinnati Habitat for Humanity (Habitat) were present to respond to questions from the Board. In response to

Mr. Senhauser, Mr. Hutzel stated that ReSTOC was not interested in selling the buildings.

Mr. Hutzel explained ReSTOC made an agreement with the City of Cincinnati that they would construct eight homeownership units in the next three years upon receiving funding for their (recently completed) Vine Street Community Project (which renovated five vacant historic buildings). This project is a result of that agreement. Mr. Hutzel stated that upon approval of the demolition, ReSTOC would sell the property to Habitat, who would construct the homes. The schematics submitted are similar to Habitat's residences constructed in the Mohawk area and were submitted with the expectation that they would be modified to meet the historic guidelines.

Mr. Senhauser explained that if there is an interested buyer for the existing buildings or the possibility that the buildings could be rehabilitated, the Board could not make the determination that they have no economic viability. Since the owner is a nonprofit corporation, the rules are less stringent in that the owner must prove that they cannot rehabilitate the building in a manner compatible with its organizational purposes. In addition, they must consider if they can profit from the sale of each building for any use.

Mr. Kraus described the condition of the buildings. He explained that Habitat's desire was to provide (in partnership with ReSTOC) affordable housing, compatible with the historic district. They are also starting to work with Improved Solution for Urban Systems (ISUS), which will provide the workforce to construct the homes.

Ms. Sullebarger stated that much of their design is consistent with the historic district guidelines. She suggested that since the predominant style is Italianate, a four-panel door be considered (which would emphasize verticality) instead of the proposed six-panel.

The Board reviewed the design and gave additional recommendations. They agreed that a parking pad in the rear would be preferable to a garage. Front yard setbacks would not necessarily have to be consistent, and could begin to dictate what occurs on the street. Mr. Senhauser commended the use of two steps separating the houses from the street, which would give some privacy. The Board agreed that a small front yard could be included and suggested retaining the existing iron fence. Mr. Bloomfield recommended the applicants approach the City to request their assistance in providing new sidewalks, street trees, and streetlights. Additionally, the Board recommended that the applicants work with staff to ensure compatibility with the historic district. Mr. Senhauser commended the overall design, stating it was indicative of the type of urban infill the Board would encourage from others.

BOARD ACTION

Because this was a preliminary design review, no action was required by the Board.

ADJOURNMENT

As there were no other items for consideration by the Board, the meeting adjourned.

William L. Forwood
Urban Conservator

John C. Senhauser
Chairman

Date _____